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"Serving Montana Employers and Employees"

STATE DOCUMENTS COLLECTION

AUGUST 1991

Volume 01 Number 01

## POLICYHOLDER NEWSLETTER

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Welcome to the State Fund's policyholder newsletter and thank you for taking time to read it. We look forward to providing you with factual, informational and relevant articles on topics which directly affect you, as a business person, and your employees.

We intend to use the newsletter to communicate with our nearly 27,000 policyholders. We plan to start with general articles about the workers' compensation system and the State Fund and publish more specific topics in subsequent issues. Although not all articles will be relevant to your business, we hope you will find some beneficial.

Our publication schedule calls for issues on a semi-annual basis. Future issues of **one-to-one** will carry articles on legal issues, legislative action, rate making, return to work of injured workers, rehabilitation topics, safety and loss prevention efforts.

In this issue there are articles on several of the above topics along with an explanation of workers' compensation insurance issues in general and the functions of the State Fund in particular. We hope you will find this newsletter useful and to your liking. Please let us know if you would like us to include articles on any topic of interest to you.

## WHAT IS WORKERS' COMPENSATION?

Workers' compensation is an insurance program designed to pay benefits to workers who are injured within the course and scope of their employment.

The Montana Workers' Compensation Act was passed by the legislature in 1915. The purpose of this Act was and still is to require this type of insurance coverage for all employees in Montana. All 50 states and all Canadian provinces have similar laws in place. This concept of insurance for injured workers came out of the Industrial Revolution, the first example having been developed in Germany.

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## WHAT IS STATE FUND?

The State Compensation Mutual Insurance Fund (State Fund) is a nonprofit, independent public corporation set up as one option where employers can insure their liabilities under the Workers' Compensation and Occupational Disease Acts. The State Fund, as it now exists, was created by the 1989 Montana Legislature.

The State Fund is governed by a Board of Directors. This Board consists of five members appointed by the Governor to serve staggered, four-year terms. The Board hired an Executive Director (President) and has full power and authority over the State Fund. They may perform all acts necessary or convenient in the administration of the State Fund.

The State Fund must set rates on an actuarially sound basis to be neither more nor less than self-supporting. The State Fund must insure all employers who apply for workers' compensation coverage and insures all state agencies.

A number of policies and procedures have been adopted to carry out the responsibilities of the statutes. The entire operation has been reorganized to more closely mirror the functions and operations of private insurance carriers.

The Underwriting Department hired additional staff to allow for more timely and effective handling of various policy services functions. Our Safety staff

Continued on Page 3

## Upcoming Articles

Medical Cost Containment

Slips, Slides and Falls

Policy Classification Process

Employer's Accident Reports

Loss Prevention & Control Programs

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## WHAT IS WORKERS' COMPENSATION? (continued)

The legislature passed the Occupational Disease Act in 1959. While the Workers' Compensation Act specifies an injury resulting from a single, identifiable incident, the Occupational Disease Act deals with injuries and illnesses which result from work-related trauma occurring over a period of time.

These two Acts combine to ensure that workers injured on the job receive prescribed medical and lost-time benefits. It is not the intent of either of these Acts to establish "fault," but to ensure benefits. Without such legislation, an injured employee would be forced to seek solutions through the court system, which can be extremely time consuming and often very costly.

Such insurance programs are also intended to protect the employer (policyholder). Generally injured employees must seek benefits from the employer's workers' compensation policy. This "exclusive remedy" provision protects employers from paying unreasonable sums of money based on liability suits. These programs, in most cases, protect the employer against tremendous losses.

Though both the Workers' Compensation and Occupational Disease Acts require all employers to provide such insurance protection for their employees, neither of them specify where this insurance must be obtained. The statutes provide alternative sources for coverage. The law refers to alternatives such as Plan Numbers 1, 2 and 3.

Plan Number 1 allows the employer or association of employers to "self insure." In other words, an organization or association must provide all mandated benefits to injured workers from their own resources. There are a number of criterion which an employer or group must meet in order to be eligible to self insure. The Department of Labor and Industry approves self insurers.

Plan Number 2 allows the employer to purchase workers' compensation insurance from any of several "private" insurance providers. Such private carriers must meet all of the stipulations of the applicable laws.

Plan Number 3 refers to the State Compensation Mutual Insurance Fund (State Fund). Until very recently, the State Fund was operated by the Workers' Compensation Division. A separate article on the State Fund is included in this issue.

## SAFETY CONTROLS COSTS

An employer has minimal control over some of the factors which directly impact the cost of workers' compensation insurance. However, employers have a direct impact based on their commitment to develop, implement and seriously adhere to loss control programs. In the past few years several industries and many individual employers have successfully implemented safety programs which significantly reduced claim costs and correspondingly decreased premiums paid by these employers. If an employer significantly decreases the losses through safer operating procedures and effective safety efforts, then premiums can be reduced.

There are three key considerations in any effective safety program.

1. All employees and supervisors must be convinced that it is "OK" to work safe. This may sound like a play on words, but it is a most important concept in safety. Simply stated, "Whatever the boss wants, the boss gets." If employees are convinced they are expected to produce high quality products efficiently *and safely*, it will happen.
2. A business needs to follow effective job safety procedures. When you are short handed or in a hurry, the only real protection an employee has is the habit of doing the job safely.
3. The quality of production and customer service depend on the caliber of the individual you hire and how well they are trained. Inexperienced employees are the most vulnerable to being hurt because they don't really know what will hurt them, plus they are trying to prove what good employees they are. This combination produces many accidents in the first six months of employment.

The best method of improving and maintaining low loss experience is to implement a comprehensive loss prevention and control program.

The benefits of implementing an effective loss control and prevention program are numerous and far outweigh the potential consequences of not doing so. Obviously, doing nothing will result in continued high losses and high premiums. The following are benefits which can be reaped from serious loss control and prevention efforts:

# SAFETY CONTROLS COSTS

1. Improved employee morale.
2. Reduced accident frequency and injury severity.
3. Reduced lost time of employees.
4. Reduced down time of equipment.
5. Improved productivity.
6. Decreased non-workers' compensation costs.
7. Improved workers' compensation experience modification factor.
8. Decreased or stabilized workers' compensation base premium rates.

The following are actual examples of businesses which implemented a safety program.

1. A major construction firm with annual payroll of about \$700,000 decreased liabilities from accidents and injuries from \$162,000 in 1986 to less than \$50,000 in 1990.
2. A drilling company with annual payroll of \$700,000 lowered injury-related costs from \$406,000 in 1986 to less than \$20,000 in 1990.
3. A steel firm with annual payroll of \$1.7 million had liabilities from work-related injuries of \$218,000 in 1986 and just over \$13,000 in 1990.
4. A major nursing home facility with annual payroll of \$1.2 million dropped liabilities from \$270,000 in 1986 to \$62,000 in 1990.
5. A large printing company with annual payroll of \$1.4 million lowered work-related injury liabilities from over \$120,000 in 1986 to just over \$10,000 in 1990.

These seem like very large decreases in costs related to workers' compensation insurance, but they are actual figures from our records. These are definitely not unique circumstances. Many large and small policyholders with effective loss prevention programs have seen similar liability decreases in recent years.

Management commitment is the most critical element of an effective loss prevention and safety control program. But, as the above examples show, the time and effort is well spent resulting in considerable savings for the companies.

In addition to management's commitment, there are many other elements to a successful program, including proper policies and procedures, safety committees, safety meetings and training, identification and analysis of hazards, and accident investigation, just to mention a few. The employer must attempt to incorporate as many elements as possible to reduce the frequency and severity of injuries.

The State Fund's seven safety consultants can help but time does not permit direct contact with each and every one of our 27,000 policyholders. We intend to include specific safety-related articles in each issue of **one-to-one** in order to provide at least some assistance to all policyholders. We hope you read these articles and receive some practical safety measures which will benefit your business.

## SAFETY PAYS

### WHAT IS STATE FUND?

(continued)

has been increased to better and more effectively serve the loss prevention needs of policyholders. Marketing efforts have been developed and implemented. The State Fund now provides its own auditing functions.

Several staff members have been added to the Benefits Department. Additional claims examiners have been hired to assure all required benefits are paid to injured workers in as timely and effective manner as possible. This action also allows for a more active approach in claims management. Rehabilitation coordinators have been added to the Benefits Department to ensure proper and quality rehabilitation services are provided within various cost containment guidelines.

All in all, we at the State Fund view the future in a most positive light. Every effort will be put forth to ensure the highest quality of services are provided to policyholders and claimants at the lowest possible cost.



## one-to-one

The State Fund "one-to-one" is an official policyholder newsletter published by the State Compensation Mutual Insurance Fund to educate and keep State Fund policyholders informed on the workers' compensation industry and the State Fund.

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# LEGISLATIVE UPDATE

The following is a brief summary of some of the legislation which primarily impacts the State Fund.

## Senate Bills

**SB 102** Workers' compensation insurance coverage for Volunteer Firefighters.

**SB 130** Insurer is only liable for the payment of generic drugs unless the physician specifies no substitutions or a generic drug is not available.

**SB 188** Adds acupuncturists to the list of medical providers. The injured worker has initial freedom of choice in the selection of medical providers.

**SB 383** Defines temporary service contractor, temporary worker and the motor carrier responsible for coverage of driver(s). It also clarifies the subrogation section of the statute and repeals the conflicting 20-day cancellation notice previously in the law and clearly defines the required 30-day cancellation notice.

**SB 420** States the insurance carriers and the State Fund must offer insureds a deductible program for medical, hospital and related services in the amount of \$500 per claim.

**SB 473** Provides for workers' compensation insurance coverage for some community service workers.

## House Bills

**HB 187** The insurance carrier must adopt a method of calculating premium paid by the construction industry which does not impose a higher insurance premium solely because an employer pays a higher wage.

**HB 197** Codifies a Supreme Court decision which states, "The court can impose a 20% penalty for unreasonable delays or refusal to pay after the court has ordered the payment or after the insurer agrees to pay."

**HB 251** Extends the legislative Workers' Compensation Joint Select Committee until June 30, 1993.

**HB 280** Temporary total benefits can be denied if the treating physician releases the worker to the same, modified, or an alternative position for which the worker is qualified, with the same employer, at the same or higher wages and the worker does not accept said offer.

**HB 465** Generally revises and clarifies the regulatory and administrative functions of the workers' compensation system.

**HB 807** Clarifies workers' compensation and unemployment insurance lists of exempted employers.

**HB 812** Allows the Department of Labor and Industry to adopt rules to determine the employee's expense reimbursements which will be excluded from "wages" for both workers' compensation and unemployment purposes.

**HB 837** Revises definitions of permanent partial and permanent total disabilities, redefines rehabilitation, repeals rehab panels and impacts many other areas of workers' compensation.

**HB 995** Grants Board of Investments authority to sell up to \$220,000,000 in bonds to pay for claims for injuries resulting from accidents which occurred before July 1, 1990 and allows for lump-sum settlement of a claim regardless of the lump-sum law in effect at the time of injury.



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